

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ANDRE D. STRINGER,

Plaintiff,

Case No. 2:23-cv-11829

v.

SUDHIR BHAMINI et al.,

Defendant.

Honorable Susan K. DeClercq
United States District Judge

Honorable Patricia T. Morris
United States Magistrate Judge

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**OPINION AND ORDER (1) OVERRULING PLAINTIFF'S OBJECTIONS,
ECF No. 50; (2) ADOPTING REPORT AND RECOMMENDATION, ECF
No. 44; (3) GRANTING DEFENDANTS' MOTIONS TO DISMISS, ECF Nos.
32; 34; AND (4) DISMISSING DEFENDANTS BHAMINI AND BROWN**

Plaintiff Andre D. Stringer alleges that the defendants violated his Eighth Amendment rights while he was incarcerated by denying him a critical bottom-bunk accommodation. Defendants Sudhir Bhamini and Cherie Brown, among others, stand accused of this misconduct, prompting a volley of motions to dismiss from their side. The magistrate judge, after meticulous consideration, recommended granting both motions. Plaintiff objects, warranting a *de novo* review. Having found no clear error, Defendants Bhamini and Brown will be dismissed.

I.

On July 28, 2023, Plaintiff commenced this *pro se* civil—rights lawsuit under 42 U.S.C. § 1983 against Defendants Sudhir Bhamini, Adria Roach, Cherie Brown,

Sirena Landfair, Michelle Gilbert, and Mandi Hollister. ECF No. 1. Defendants are sued in their individual capacity. *Id.* at PageID.2–4. Plaintiff alleges that, while incarcerated at G. Robert Cotton Correctional Facility in Jackson, Michigan, Defendants violated the Eighth Amendment by refusing to honor a previously issued bottom-bunk accommodation. *Id.* at PageID.5–6.

Defendants Bhamini and Brown filed motion to dismiss. ECF Nos. 32; 34.

In June 2024, Magistrate Judge Patricia T. Morris issued a report recommending Defendants' motions to dismiss be granted. ECF No. 44. Plaintiff objects to the recommendation. ECF No. 50. Although Judge Morris provided both parties 14 days to object, Defendants did not do so and have therefore forfeited their right to appeal Judge Morris's findings. *See Berkshire v. Dahl*, 928 F.3d 520, 530–31 (6th Cir. 2019) (citing *Thomas v. Arn*, 474 U.S. 140, 149 (1985)).

II.

When a party objects to a magistrate judge's report, the court must review *de novo* those portions of it to which the party has objected. 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b)(3). To that end, the court must review at least the evidence that was before the magistrate judge. *See Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981). After reviewing the evidence, the court may accept, reject, or modify the findings and recommendations. FED. R. CIV. P. 72(b)(3); *Peek v. Comm'r of Soc. Sec.*, 585 F.Supp.3d 1014, 1017–18 (E.D. Mich. 2021). Moreover, the court may

adopt the magistrate judge's report without specifying what it reviewed. *Abousamra v. Kijakazi*, 656 F. Supp. 3d 701, 705 (E.D. Mich. 2023) (collecting cases).

This Court has reviewed Plaintiffs' complaint, ECF No. 1, Defendants' answer, ECF No. 20, Defendants' motions to dismiss, ECF No. 32; 34, the accompanying response and reply, ECF Nos. 40; 42, Judge Morris's R&R to grant both motions, ECF No. 44, Plaintiff's objections, ECF No. 50, the accompanying response, ECF No. 51, and all other applicable filings and law.

Having conducted this *de novo* review, this Court finds that Judge Morris's factual conclusions are reasonably correct, that she reasonably applied the correct law, and that her legal reasoning is sound. That is, there are no prejudicial clear errors in Judge Morris's findings or recommendations (1) to deny Defendants' motion to dismiss, (2) to deny Plaintiff's motion to compel, (3) to extend discovery to facilitate Defendants' deposition of Plaintiff, (4) to direct Plaintiff to complete discovery, and (5) to inform Plaintiff that any additional discovery violation will result in the dismissal of his complaint under Civil Rule 41(b) for failure to prosecute.

III.

Accordingly, it is **ORDERED** that Plaintiff's Objections, ECF No. 50, are **OVERRULED**.

Further, it is **ORDERED** that the Magistrate Judge's Report and Recommendation, ECF No. 44, is **ADOPTED**.

Further, it is **ORDERED** that Defendant Cherie Brown's Motion to Dismiss, ECF No. 32, is **GRANTED**.

Further, it is **ORDERED** that Defendant Sudhir Bhamini's Motion to Dismiss, ECF No. 34, is **GRANTED**.

Further, it is **ORDERED** that Defendant Cherie Brown is **DISMISSED** from the above-captioned case.

Further, it is **ORDERED** that Defendant Sudhir Bhamini is **DISMISSED** from the above-captioned case.

This order does not close the above-captioned case.

/s/Susan K. DeClercq
SUSAN K. DeCLERCQ
United States District Judge

Dated: 7/18/2024